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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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92-100

In the Matter of

Amendment to the Commission's
Rules to Establish New Personal
Communications Services

) GEN Docket No. ~~92-100~~
) ET Docket No. 92-100
)
) RM-7140, RM-7175, RM-7617,
) RM-7618, RM-7760, RM-7782,
) RM-7860, RM-7977, RM-7978,
) RM-7979, RM-7980
)
) PP-35 through PP-40, PP-79
) through PP-85

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COMMENTS OF THE RURAL INDEPENDENT COALITION

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SUMMARY

The Rural Independent Coalition ("RIC"), an ad hoc group of rural independent telephone companies serving 50,000 or fewer access lines, joins to present their views to the Commission concerning the regulatory framework under which Personal Communications Services ("PCS") will be made available to the American public. RIC views this docket as vitally important because the technological innovations offered by PCS are naturally applicable to rural telephony. As a result, RIC believes that the Commission must promulgate PCS regulations which not only allow but encourage the development of PCS in rural areas.

Given the Commission's traditional acknowledgement and accommodation of the special demographic and geographic circumstances of rural America, it is incumbent upon the Commission to reaffirm its commitment to universal service and the implications of that policy goal as it relates to PCS. To further that goal, and the three additional goals established for PCS service (speed of deployment, diversity of services, and competitive delivery), RIC suggests that the Commission reserve spectrum for the use of local exchange companies in order that they may ensure that the efficiencies of PCS redound to the benefits of rural telephone subscribers.

In addition, RIC submits that the Commission's stated goals will not be served if telephone companies also engaged in the provision of cellular service are precluded from offering PCS in

overlapping service areas. In rural areas, the introduction of new services, rather than the perhaps distant goal of competitive delivery, is the crucial issue. The Commission's eligibility rules must, therefore, consider the special needs of rural areas and recognize that rural telephone companies historically have provided state-of-the-art services in areas unattractive to other entities. RIC therefore submits that rural telephone companies should be exempted from any cross-ownership ban. In the alternative, should the Commission impose a flat prohibition, RIC submits that the Commission should consider a more liberal approach to defining cognizable ownership interests with respect to rural cellular systems to avoid penalizing rural telephone companies and their subscribers for minority participation in the provision of cellular services.

RIC also goes on record as opposing auctions to award PCS licenses. RIC views auctions as a process which rewards only the rich, one which would penalize rural areas by delaying, if not preventing, deployment of new technologies in favor of more lucrative, denser markets. RIC sees no public benefit in utilizing an auction mechanism.

The Commission's consideration of the size of licensing areas must also be analyzed in the context of its stated policy goals and the technological flexibility of PCS technology. In light of these goals, the technical realities of PCS, and in the interest of ensuring that rural America is not disadvantaged as a result of this proceeding, RIC also suggests that licensing areas be no

larger than existing cellular markets. The creation of large licensing areas will impede the Commission's goals because large-area licensees initially will naturally concentrate only on more lucrative, more densely-populated areas initially. RIC also believes that the Commission's reliance on its experience in consolidation of cellular markets may not be appropriate in this instance, given the technological characteristics and flexibility of PCS. The Commission's concerns with respect to administrative efficiency may be satisfied through less drastic, less market-determinative means.

Finally, in recognition of PCS's flexibility, RIC suggests that the Commission establish an equally flexible regulatory regime, one which will regulate a licensee as a common carrier or a private carrier according to the service which is provided. The market will thereby establish the relationship between the supplier and the consumer.

Before the
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| |) | GEN Docket No. 90-314 |
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COMMENTS OF THE RURAL INDEPENDENT COALITION

The members of the Rural Independent Coalition ("RIC" or "Independents") join to file their comments and present their concerns to the Commission with respect to this crucial docket. RIC is comprised of rural independent telephone companies serving 50,000 or fewer access lines. Its ad hoc membership includes the companies listed on Appendix A.

The Independents view this proceeding as a major step in the practical application of technological advancements which invigorate the entire communications industry. At the same time, this docket also provides an opportunity to the Commission to reaffirm its traditional commitment to ensuring that the fruits of technological advances are available to rural America. These twin themes are complementary, and serve as the framework upon which RIC responds to Commission proposals and requests for comment, as specified in the Notice of Proposed Rulemaking and Tentative Decision ("Notice"), released August 14, 1992.

I. The Commission's Traditional Recognition of the Special Circumstances of Rural Communities Requires Reaffirmation in this Proceeding

As the Commission inaugurates PCS, adherence to its history of acknowledging and accommodating the special circumstances of rural areas will further each of the Commission's stated goals for the PCS regulatory structure: universality, speed of deployment, diversity of services and competitive delivery.¹ In addition, prior regulatory experience provides a structural framework and reliable guidance for formulating rules which will result in a personal communications service designed to meet the needs of all Americans.

The significant technological and structural changes which have shaped the communications industry over the past several decades have never deterred the Commission from consistently recognizing and protecting the interests of rural areas while simultaneously serving overall policy goals. In most major dockets dealing with regulatory issues arising from technological advances, the Commission has considered the special needs of rural citizens and designed regulations to encourage marketplace satisfaction of these needs. Over a diverse range of issues, from cable television to rural cellular radio, the crucial differentiation of population density has led the Commission to distinguish a regulatory treatment appropriate for rural areas.

The creation of a "rural exemption" to the Commission's cable/telephone company cross ownership prohibition stands as a

¹/ Notice at 4.

well-articulated recognition of the regulatory considerations required to meet the needs of rural communities. Recognizing that "independent cable television operation tends to be economically infeasible below a certain population density,"² the Commission's "concern that its rules not deprive rural Americans of cable television service"³ resulted in the establishment of a "rural exemption" to the cross-ownership prohibition "to assure that such [rural] areas have an opportunity to enjoy the same benefits associated with broadband services which urban areas are already experiencing or are more likely to experience sooner."⁴

Similarly, the introduction of cellular radio into more sparsely-populated areas required the Commission's refinement of rules which originally were established for metropolitan areas. In recognition of the population characteristics of rural areas, the Commission modified technical rules to ensure that rural licensees had the ability to serve their subscribers efficiently.⁵

Despite the diversity of these services, the one important commonality which required the Commission to fashion an appropriate regulatory response to variations in demographic characteristics is

^{2/} Revision of Processing Policies for Waivers of Telephone Company-Cable Television "Cross-Ownership Rules", 69 FCC 2d 1097, 1112 (1978).

^{3/} Elimination of Telephone Company-Cable Television Cross-Ownership rules for Rural Areas, 88 FCC 2d 564, 571 (1981).

^{4/} Id. at 572.

^{5/} In the Matter of Amendment of the Commission's Rules for Rural Cellular Service, 60 RR (P&F) 2d 1029, 1039-1040 (elimination of hand-off requirements and relaxation of height-power limitations for Rural Service Areas) (1986).

the fact that an entrepreneur's decision to introduce a capital-intensive service is driven by density considerations. The same factor is present as the Commission considers the regulatory scheme which will govern the introduction of PCS. Consequently, the Commission's goal of PCS universality can be met only if its regulatory structure encourages the provision of service to rural America. Indeed, the Commission's statutory mandate requires it to pursue this ultimate goal.⁶

RIC's position that the Commission must consider the unique requirements of rural America forms the basis upon which it has evaluated the Commission's PCS proposals. The Independents firmly believe that any decision reached in this crucial docket which fails to incorporate the consideration of the distinctive needs of rural America will, in effect, sacrifice rural America to other interests.

II. The Commission Should Reserve Spectrum for Wirelines to Ensure that the Efficiencies of PCS Redound to Rural Local Telephone Exchange Subscribers

The Commission itself recognizes that PCS technology is a natural compliment to traditional wire service within a local exchange area.⁷ Particularly in rural areas, where longer local loops are required to serve geographically dispersed subscribers, the obvious cost savings and gains in network efficiencies

⁶/ The Federal Communications Commission was created "to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide . . . radio communications service with adequate facilities at reasonable charges" 47 U.S.C. §151.

⁷/ Notice at 30.

resulting from the integration of PCS with existing plant demand that the Commission promote the public interest by ensuring that this technology is available to telephone companies within their respective local exchange telephone service areas. RIC therefore proposes that the Commission reserve at least one frequency block for such utilization by wirelines to ensure that subscribers benefit from the promised economies of intertwining PCS technology with the existing network, and also enjoy the additional services which PCS technology offers.

RIC fully supports the Commission's tentative conclusion that a strong case exists for allowing local exchange carriers to offer PCS in their local exchange areas.⁸ RIC submits, however, that the natural corollary to that conclusion is the establishment of a frequency reservation for wirelines to ensure, particularly in rural areas, that the public will benefit from the efficiencies which will arise in the provision of local telephone service through utilization of this technology. Artificial impediments, including the possibility that wirelines are not able to secure licensing or are required to expend excessive resources in pursuit of licenses, could severely harm the public by actually preventing the development and implementation of PCS in rural communities. As noted by the National Association of Regulatory Utility Commissioners ("NARUC"), small, rural telephone companies, such as the RIC membership, may be the only entities willing to provide PCS

⁸/ Id.

service to their subscribers.⁹

Although the Commission has given only marginal consideration to reserving spectrum for telephone companies to utilize in providing PCS,¹⁰ such consideration is crucial to ensuring that rural areas benefit from PCS technology. In pursuit of its statutory mandate to ensure the availability of communications services on a nation-wide basis,¹¹ the Commission must acknowledge and deal with the demographic and geographic characteristics of rural America to effect a rational structuring of PCS. The Independents submit that the communications needs of rural America, when evaluated with reference to its sparse population, can best be met through the establishment of a reservation of at least one PCS license for authorized telephone companies serving rural areas.

RIC recognizes that the Commission has justifiable concerns regarding the possibility that spectrum may lie fallow. The Commission, however, possesses a multitude of regulatory tools to ensure that spectrum which is not utilized, or underutilized, is not forever captive of the original licensee.¹² RIC suggests that

⁹/ En Banc Hearing of the Federal Communications Commission, December 5, 1991 (testimony of Kenneth Gordon, President, NARUC).

¹⁰/ See, e.g., Notice at para. 79, which states only that a smaller spectrum allocation which could be utilized by local exchange companies initially to integrate PCS systems with the existing landline system would not be considered a set-aside.

¹¹/ 47 U.S.C. Sec. 151.

¹²/ In addition to the limited construction periods extant in every radio service, the Commission also utilizes frequency "take-back" techniques. See, e.g., Section 90.631(b) of the Commission's Rules, 47 C.F.R. § 90.631(b), providing that if all frequencies are assigned in a given area, failure to reach a specific loading

the Commission's concerns with respect to full utilization of the spectrum could be satisfied in the context of a wireline reservation if such reservation were to expire automatically after a specified period of time subsequent to the date after which the last of all other licenses in that market were granted. This plan would allow the Commission to guarantee that market demand is accommodated, while still protecting the interest of each telephone subscriber in the economies which result from telephone company utilization of PCS for network efficiency purposes and other services. RIC believes that this plan offers rural sections of this country the best possibility of reaping the benefits of this new technology, both as a compliment to traditional wireline service and also as a new communications service offering. Since these areas might otherwise go unserved, especially if the licensing areas are large (see below), a reservation of spectrum for utilization by wirelines serving rural communities will serve the public interest by encouraging rapid deployment of a promising technology.

Moreover, this spectrum reservation should not encompass channels of less spectrum than other licenses, nor should the license granted foreclose network configuration decisions which, in the licensee's opinion, best serve the needs of its subscribers. The elegance of PCS as envisioned by the Commission is derived, in large part, from its flexibility; manacles on any licensee are

requirement per channel on the Specialized Mobile Radio System will result in cancellation of authorization.

inappropriate where the goal of the Commission is to encourage the broadest and most flexible utilization of the spectrum. Furthermore, there is a distinct possibility that any limitations placed on spectrum allocation or utilization will thwart the Commission's objective that PCS be complimentary of existing network for the provision of local service; the Commission must carefully construct the PCS regulatory regime to effectuate its vision.

III. The Commission's Eligibility Requirements Must Compliment Its Policy Goals

In addition to the spectrum reservation discussed above, RIC believes that local exchange companies should not be precluded from providing PCS service either inside or outside their telephone service areas. In rural areas, particularly, the need to attract the largest number of potential service providers is clear. Consequently, RIC opposes any limitation on eligibility based on a company's provision of cellular service within the proposed PCS service area.

In seeking comment on the issue of whether those entities which currently provide cellular services should be eligible to provide PCS in their own service areas,¹³ the Commission opines that, while allowing cellular operators to also obtain PCS licenses may lead to efficiencies in scope,¹⁴ competitive considerations may favor precluding cellular operators from seeking licenses in their

¹³/ See Notice at 27.

¹⁴/ Id.

own cellular service areas. While the Commission also proposes that local exchange telephone companies be eligible for PCS licenses within their local service area¹⁵, it seeks comment on whether the ineligibility of cellular operators (if adopted) should also extend to telephone companies where they are engaged in cellular operations.¹⁶ Finally, the Commission proposes to adopt the ownership standards utilized in the cellular proceedings for markets beyond the top 120 RSAs¹⁷ to determine eligibility for PCS licenses.

The Independents submit that the citizens of rural communities across the country will derive direct and immediate benefit from the Commission's establishment of PCS only to the extent that rural local exchange companies are allowed to participate in the provision of that service. It is a matter of public record that rural telephone companies have demonstrated a commitment to deploying new technologies promptly, including cellular service.¹⁸ Consequently, maximum participation by rural telephone companies

¹⁵/ Id. at 30.

¹⁶/ Id. at 31.

¹⁷/ Basically, direct or indirect ownership interests in cellular operations of more than one percent (five percent for publicly-traded corporations) would bar PCS licensing in the same geographic area. Notice at n. 46.

¹⁸/The Commission may take notice of the public record established in its own files. Where rural local exchange carriers operate rural cellular systems, there has been a demonstrated commitment to deploy cellular service throughout the licensed area as opposed to selective deployment to only the "cream" of the market area.

should be encouraged by the Commission, inasmuch as such a decision would further the Commission's stated goal of speedy deployment.¹⁹

While RIC notes that some PCS services are anticipated to compete directly with cellular services, it is also the case that the proposed definition of PCS²⁰ is both broad and flexible. The variety of personal communications services will, in the long run, be limited only by the ingenuity of the service provider and the demands of the public for innovations and customization. Moreover, and most importantly, the single issue which is most crucial in rural areas is the introduction of services, rather than the perhaps distant goal of competitive delivery. Where the introduction of capital-intensive services is a density-driven decision, special care is required to avoid a regulatory framework which sacrifices the reality of availability to the ideal of competition.²¹

^{19/} Notice at 4. See supra n. 1 and accompanying text.

^{20/} The Commission proposes that "personal communications services be defined as a family of mobile or portable radio communications services which could provide services to individuals and business, and be integrated with a variety of competing networks." Notice at 14.

^{21/} The Commission has cited with approval the Second Circuit's determination that "competition" does not constitute the entirety of the Commission's public interest determination:

"[W]ere the Commission to base its action solely upon the ground that competition in the industry would be favored thereby and nothing more, we would have some doubt as to whether it had fulfilled its responsibility to consider other important criteria before determining whether its proposed rule is in the 'public interest.'"

RIC, therefore, firmly opposes any eligibility requirement which prohibits those engaged in the provision of cellular service from also participating in the provision of PCS. To the extent, however, that the Commission determines that the requirements of competition supersede other considerations and requires that experienced cellular service providers be precluded from offering both cellular and personal communications services in the same area, the public interest demands that rural telephone companies should be exempted from such a ban.

First, it must be noted that if the Commission's concern that failure to exclude cellular companies from PCS in their cellular service areas will limit entry opportunities and stunt competition between cellular and PCS is correct, then the sparse subscriber base in rural areas may work to prevent the introduction of PCS in rural areas. Faced with two existing cellular licensees, having already established their own markets among subscribers interested in mobile communications, a prospective newcomer faces a huge marketing obstacle. The undesirable result could well be that rural areas are deprived of PCS and its potential benefits altogether. For this reason alone, the public interest requires that companies with a demonstrated service commitment to sparsely-populated areas be allowed to participate in the deployment of a new technology and bring to rural areas the same communications capabilities which will be enjoyed in more lucrative markets.

In the Matter of an Inquiry into the Use of the Bands 825-845 MHz for Cellular Communications Systems, 89 FCC 2d 58, 72 (1982) citing Radio Relay Corp. v. FCC, 409 F.2d 322, 326 (2d Cir. 1969).

Historically, rural telephone companies have always provided service to areas which were unattractive to other companies.

Furthermore, the benefits of PCS should not be precluded in rural areas simply because a telephone company, without foreknowledge of later Commission actions, sought to provide state-of-the-art service to its subscribers by participating in the provision of cellular service. RIC therefore proposes that a rural local exchange carrier serving 50,000 or fewer access lines be exempt from any eligibility criteria that may otherwise be applied due to its participation in cellular operations in the same area.

Should the Commission nonetheless determine that a flat prohibition, regardless of population density or company size, be applied against all current cellular carriers with respect to their cellular service area, RIC proposes that the ownership criteria adopted by the Commission recognize that many rural telephone companies participate in the provision of cellular services within their telephone service areas as members of consortiums (corporations or partnerships) which developed cellular systems to serve broad, sparsely-populated areas in a cost-effective manner. Participation below a majority interest in cellular companies should not preclude rural telephone companies from PCS eligibility. RIC therefore submits that, if the Commission pursues a cellular/PCS cross-ownership prohibition, that it must consider a more liberal approach to defining rural cellular interests which

are not cognizable for that purpose.²²

IV. RIC Opposes Auctions as a Licensing Mechanism

The Commission seeks comment on reforming its current licensing mechanism,²³ or, in the alternative, whether an auction mechanism may be implemented for awarding PCS licenses in the event that Congress authorizes the Commission generally to utilize a bidding procedure.²⁴ With respect to the latter, RIC notes that, inasmuch as Congress has not yet granted the Commission the authority to utilize an auction mechanism, any conjecture with respect to its applicability to PCS or its implementation is wholly premature. Given that the Commission appears to support this mechanism as a means of spectrum allocation, the Independents wish to state for the record that they oppose auctions as a means of licensing PCS systems in rural America.

From a philosophical perspective, the Independents believe that it is inappropriate to compare auctioning rights to retrieve a finite resource, such as oil or coal, to a scarce but renewable/reusable resource, such as the radio spectrum. Furthermore, the Independents believe that it is also inappropriate to compare the

²²/ RIC believes that failure to distinguish rural areas in this context would constitute an arbitrary and capricious departure from Commission precedent and a total failure to consider facts which have crucial public policy implications. Furthermore, to the extent that the Commission is concerned that a cellular company holding a PCS license may preclude or delay the introduction of PCS, a minority interest in that company cannot, by definition, implement such actions.

²³/ Notice at 32-35.

²⁴/ Id. at 35-36.

system currently utilized in the United States to trials in foreign countries, where competition in the provision of telecommunications services is itself relatively new.

Finally, from a practical perspective, the Independents are opposed to auctioning PCS spectrum in rural areas because such a system will encourage mere speculation in the value of the license itself, without the concomitant commitment to the provision of service tailored to meet the needs of rural America. Because only cash-rich entities will secure licenses through auctions, subscribers will ultimately pay the price in higher cost of service and delays in implementation of service to citizens outside of the "cream" parts of the licensed area.

RIC believes that auctions provide no public benefit and, in fact, harm the public and the industry. The public interests in service availability, quality, reliability and innovation are not furthered by investing these responsibilities in the highest bidder. Auctioning rewards only the rich, and will remove the incentives for small rural entrepreneurs and cooperatives to participate in an industry which has thrived because of their existence.

V. The Size of Licensing Areas Must Serve as a Compliment To the Commission's Stated Goals

The Commission's suggestion that PCS market areas should be larger in size than existing cellular licensing areas appears to be based solely upon its experience in requests for consolidation of cellular markets. This experience leads the Commission to suggest that economies of scale in wireless services may require such

larger geographic areas.²⁵ In addition to the possibility that comparisons between cellular and PCS market sizes may be inappropriate, implementation of this tentative conclusion will undermine the Commission's stated policy goals and obviate the technical advantages of PCS.

In determining the appropriate size of licensing areas, the Commission's goals of universality, speed of deployment, diversity and competitive delivery can be met only through construction of a licensing plan of more limited geographic proportions than tentatively proposed. Particularly in rural areas, large licensing areas run the risk of precluding the introduction of PCS altogether. The Independents oppose the adoption of rules creating market areas larger than existing Rural Service Areas on the grounds that (1) less densely populated regions within larger markets (i.e., rural America) certainly will suffer a delay in deployment, if not complete absence of service, as the licensee concentrates on the denser, more lucrative areas of its service area; and (2) the entire nation will be disserved because concentration on urban areas does little to promote the development of efficiencies which are necessary to serving less densely-populated areas. These results undermine the Commission's goals of universality and speedy deployment.

In addition, the Commission's interest in competitive delivery of PCS services may be thwarted by large licensing areas. Larger market areas have the effect of decreasing the opportunity to enter

²⁵/ Notice at 25.

the market, and, moreover, will affect negatively the level of technical innovation which can develop, there being fewer players within the industry. As would result from utilization of auctions to award licenses, larger markets also tend to favor wealthier entrants over those who, while perfectly capable of providing high-quality service to a smaller market, do not have the financial wherewithal to initiate a larger-scale project.

Perhaps most crucial to the integrity of PCS, however, is the negative effect that larger markets will have on service diversity. Smaller licensing areas compliment the inherent technical characteristics of PCS, which generally utilize smaller cells and lower base-station power. Inasmuch as the Commission envisions the service as extremely flexible,²⁶ such flexibility, for instance, in servicing discrete market niches, should be encouraged by a regulatory framework which ensures that the full potential of PCS services may be reached.

RIC believes that the Commission mistakenly relies upon its experience in cellular market consolidations in reaching its tentative conclusions. Although closely related to cellular service, PCS will not necessarily exhibit the same characteristics as those which may have encouraged market consolidation in the cellular industry. Prejudging this issue may prove detrimental to the development of service in rural areas, as noted above, and may also have a negative impact upon the provision of service to urban areas in the event that consolidated service areas are not

²⁶/ See infra n. 19 and accompanying text.

generally as appropriate to PCS as this configuration apparently is to cellular systems.

For instance, a single large market will not prove as sensitive to the particular needs of a given portion of the market as will smaller licensed areas. Cellular service is basically a single-service (mobile) offering, whereas the Commission envisions PCS as flexible enough to encompass a wide variety of services. Consolidated markets may result in a loss of variation in services.

To the extent that the Commission's proposal is founded on concerns of administrative efficiency, these concerns should play a secondary role to encouraging the development and deployment of a vital and competitive industry. Administrative efficiency could be realized from purely procedural mechanisms, rather than the implementation of larger licensing areas which will have substantially negative substantive results. For example, the Commission could streamline its own procedures with respect to consolidation requests, or institute modified transfer/assignment procedures for those prospective transferees or assignees whose qualifications are known to the Commission. In addition, appropriate technical standards can accommodate concerns related to interference coordination. It is simply unwise to impose structural requirements which are antithetical to the technical characteristics of PCS, particularly when all stated Commission goals in the establishment of this service are also threatened by this scheme.

These concerns are exacerbated with respect to rural areas,

which may never receive PCS service under the licensing environment proposed by the Commission. Rather than constructing roadblocks to the utilization of PCS technology in rural areas, the Commission must instead encourage the provision of such services in rural areas. The Independents believe that this can best be accomplished by careful consideration given to establishing an initial market size no larger than current Rural Service Areas in the cellular service. RIC believes that small licensed areas are absolutely critical to the timely availability of PCS in rural areas.

In general, the Independents promote the development of neutral rules in order to allow full play in the market to find the correct size criteria. Only smaller, rather than larger, initial licensing can accomplish that goal; only smaller markets can achieve the Commission's stated goals.

VI. Appropriate Regulatory Regime

In keeping with the potential richness of PCS, and in recognition of the diversity of markets throughout the United States, the Independents suggest that the flexibility of PCS can be promoted most effectively by a similarly flexible regulatory approach. Toward that end, RIC proposes that the Commission's recognition that PCS technologies are equally adaptable to both common and private carrier services be extended to encompass a flexible regulatory approach which applies either common carrier or private carrier regulations to the particular service which a licensee proposes to provide. A similar regulatory approach has been adopted in the Multipoint Distributional Service, to the

benefit of subscribers and service providers alike.²⁷ The elegance of PCS would be enhanced by a regulatory approach which is sensitive to both its inherent flexibility and diversity. No licensee, therefore, should be precluded from utilizing the PCS technology to provide services under either regime.

RIC therefore supports a flexible regulatory approach, one which compliments the characteristics of PCS and furthers the Commission's goals. As is the case with the issue of optimal market size, it is the market and consumer demand which should shape regulatory response in this area.

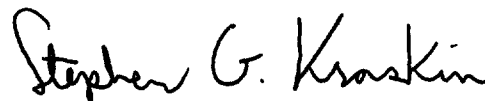
²⁷/ The Commission noted that the ability to elect regulatory status was particularly appropriate in the Multipoint Distribution Service("MDS"), given that the flexibility of allowing the market place to determine the relationship between the supplier and its customers would result in providing the best price to the consumer, maximize spectrum utilization and increase innovation. In the Matter of Revisions to Part 21 of the Commission's Rules Regarding Multipoint Distribution Service, 2 FCC Rcd 4251, 4251-4252 (1987). These goals are equally applicable to PCS, which exhibits the same flexibility as MDS.

VII. Conclusion

PCS represents enormous potential for improving the quality and the delivery of communications services in this country. This service has the potential to be both flexible and broad, and represents the type of major technological advance which has kept the American communications industry at the forefront of the world. It is the Commission's responsibility to ensure that the benefits of this service are available to urban and rural areas of this country alike, and to avoid loss of any of this service's potential in the process. RIC believes that careful consideration of its proposals and comments will assist the Commission in fulfilling this obligation.

Respectfully submitted,

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